



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

December 20, 1995

Ms. Tracy B. Calabrese  
Assistant City Attorney  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251-1562

OR95-1492

Dear Ms. Calabrese:

This is in response to your letter of June 15, 1995, in which you resubmit certain records that, with the exception of first page offense report information contained therein, this office held to be excepted from public disclosure under section 552.108 of the Government Code. Because we conclude that our determination in Open Records Letter No. 95-361 (1995) continues to apply to these records, we need not issue another ruling on this matter.<sup>1</sup>

You express concern that section 552.108 no longer protects these documents because the Houston Police Department's "investigation" regarding these matters is no longer pending. Section 552.108 excepts from public disclosure

(a) A record of a law enforcement agency *or prosecutor* that deals with the detection, investigation, or *prosecution* of crime . . . ;  
[and]

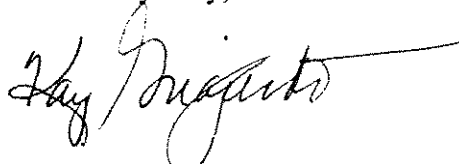
(b) An internal record or notation of a law enforcement agency *or prosecutor* that is maintained for internal use in matters relating to law enforcement . . . .

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<sup>1</sup>You specifically ask this office to address the applicability of section 552.103 of the Government Code to the requested information. We suggest that you not raise section 552.108 of the Government Code if you seek a ruling on the applicability of only section 552.103. Additionally, we do not believe section 552.103 would cover more information than that covered by section 552.108 in this instance.

You inform us that the records at issue relate to pending criminal litigation. Until the prosecutions of these particular matters have concluded, section 552.108 will continue to protect these documents from required public disclosure. *See also* Open Records Decision No. 474 (1987) (where incident involving allegedly criminal conduct is still under active investigation *or prosecution*, section 552.108 may be invoked by any proper custodian of information which relates to that incident). Accordingly, there is no need for this office to reconsider its determination in Open Records Letter No. 95-361 (1995) at this time.

Yours very truly,

A handwritten signature in black ink, appearing to read "Kay Guajardo", with a long horizontal line extending from the end of the signature.

Kay Hamilton Guajardo  
Assistant Attorney General  
Open Records Division

KHG/RWP/rho

Ref.: ID# 34314

Enclosures: Submitted documents

cc: Mr. Bryan Denson  
Ms. Alexandra Hardy  
4215 Drake  
Houston, Texas 77005  
(w/o enclosures)